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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : PATENT
Frank JUNG :
Serial No. 10/587,305 : Art Unit:
Filed: July 26, 2006 : Examiner:
For: **DEVICE FOR TESTING AT LEAST :
ONE QUALITY PARAMETER OF A :
FLUID :**

**SUBMISSION OF ENGLISH LANGUAGE
PRELIMINARY EXAMINATION REPORT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is an English language Preliminary Examination Report for the above-identified application.

Respectfully submitted,

Mark S. Bieks
Reg. No. 28,770

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Dated: May 5, 2007

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

Bartels und Partner
Patentanwälte
Lange Strasse 51
70174 Stuttgart
ALLEMAGNE

Eingegangen: 18. OKT. 2006
Received:

TERMIN

Date of mailing (day/month/year)
12 October 2006 (12.10.2006)

Applicant's or agent's file reference
40cdh/229280

International application No.
PCT/EP2004/014725

International filing date (day/month/year)
27 December 2004 (27.12.2004)

Applicant

HYDAC FILTERTECHNIK GMBH et al

IMPORTANT NOTIFICATION**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 40cdh/229280	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2004/014725	International filing date (<i>day/month/year</i>) 27 December 2004 (27.12.2004)	Priority date (<i>day/month/year</i>) 29 January 2004 (29.01.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant HYDAC FILTERTECHNIK GMBH		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 03 October 2006 (03.10.2006)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center; font-weight: bold; font-size: 1.2em;">Ellen Moyse</div> e-mail: pt05@wipo.int

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

<div style="border: 1px solid black; width: 100%; height: 100%;"></div>		<p>Date of mailing (day/month/year) See Form PCT/ISA/210 (sheet 2)</p>
<p>Applicant's or agent's file reference 40cdh/229280</p>		<p style="text-align: center;">FOR FURTHER ACTION See paragraph 2 below</p>
<p>International application No. PCT/EP2004/014725</p>	<p>International filing date (day/month/year) 27.12.2004</p>	<p>Priority date (day/month/year) 29.01.2004</p>
<p>International Patent Classification (IPC) or both national classification and IPC G01N1/20</p>		
<p>Applicant HYDAC FILTERTECHNIK GMBH</p>		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

<p>Name and mailing address of the ISA/EP</p>	<p>Authorized officer</p>
<p>Facsimile No.</p>	<p>Telephone No.</p>

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/014725

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/014725

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	_____	YES
	Claims	1-9	NO
Inventive step (IS)	Claims	_____	YES
	Claims	1-9	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims	_____	NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: DE 24 41 844 A1 (DORNIER SYSTEM GMBH, 7990 FRIEDRICHSHAFEN) 11 March 1976 (1976-03-11)

D2: US-A-5 736 654 (DUBOIS ET AL) 7 April 1998 (1998-04-07)

D3: DE 100 59 217 A1 (BRAND GMBH + CO KG) 13 June 2002 (2002-06-13)

D4: DD 294 569 A5 (ADW DER DDR, DD; UFZ - UMWELTFORSCHUNGSZENTRUM LEIPZIG - HALLE GMBH) 2 October 1991 (1991-10-02)

D5: WO 98/01750 A (HYDAC FILTERTECHNIK GMBH; SCHOEN, OTMAR; TUMBRINK, MANFRED; KIRSCH, BE) 15 January 1998 (1998-01-15)

D6: EP-A-0 405 475 (SARTORIUS AG) 2 January 1991 (1991-01-02)

2. The present application does not meet the requirements of PCT Article 33(1), because the subject matter of **independent claim 1** is not novel within the meaning of PCT Article 33(2).

2.1 Document D1 discloses (see page 2, line 9 - page 3, line 26; page 5, lines 3-26; figure 1; the references between parentheses relate to said document):

a device for testing at least one quality parameter

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/014725

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

of a fluid in fluid apparatuses, such as for example working cylinders, hydraulic accumulators, valves, filter housings or pressure tubes, which at least temporarily accommodate a given fluid volume in at least one fluid chamber (6), which fluid volume can be stored in a storage unit (7) by means of a control mechanism (4) after being discharged from the fluid apparatuses in order to be redirected from there into measuring elements to verify the respective quality parameter of the fluid.

The subject matter of **independent claim 1** is therefore not novel (PCT Article 33(2)).

2.3 Documents **D2** to **D6** (see the corresponding passages cited in the search report) are likewise prejudicial to novelty with respect to **claim 1**.

3. **Dependent claims 2-9** do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step, see documents **D1 - D6** and the corresponding passages cited in the search report.